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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,378	11/12/2003	David John Smith	CM-2477M2D	6378

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EXAMINER	
WEBB, GREGORY E	
ART UNIT	**PAPER NUMBER**
1751	

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/706,378	SMITH ET AL.	
	Examiner	Art Unit	
	Gregory E. Webb	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1,2*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 9/12/2005 have been fully considered and are found to be persuasive. Thus the previous restriction has been withdrawn and all of the instant claims directed to the water-soluble pouch will be examined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Roberts et al (US 2002/0077264).

Concerning the water-soluble pouch, Roberts, Nigel Patrick Somerville teaches the following:

[0017] The first pouch is preferably made from a water-soluble film, said water-soluble film having a solubility in water of at least 50%, preferably at least 75% or even at least 95%, as measured by the method set out hereinafter using a glass-filter with a maximum pore size of 50 microns, namely:

Concerning the pouch, Roberts, Nigel Patrick Somerville teaches the following:

14. Process for making the article of claim 1 comprising the steps of a) formation of the second pouch in open form, adding the second composition in said open second pouch and closing this to obtain the second pouch; b) formation of the first pouch in open form, adding the second pouch and the first composition to the open first pouch and closing this first pouch to obtain the article.(see claim 14)

Concerning the deformability, Roberts, Nigel Patrick Somerville teaches the following:

[0030] The elasticity of the stretchable material can be defined as the `elasticity recovery`. This can be determined by stretching the material for example to an elongation of 200%, as set out above, and measuring the length of the material after release of the stretching force. For example

a piece of film of a length of 10 cm and width 1 cm and thickness of 40 microns is stretched lengthways to 20 cm (200% elongation) with a force of 2.8 Newtons (as above), and then the force is removed. The film snaps back to a length of 12 cm, which indicates an 80% elastic recovery. Preferably, the pouch material, in particular the first pouch, has an elasticity recovery of from about 20% to about 100%, more preferably from about 50% to about 100%, even more preferably from about 60% to about 100%, still more preferably from about 75% to about 100%, and even still more preferably form about 80% to about 100%.

Concerning the gel and the translucent, Roberts, Nigel Patrick Somerville teaches the following:

[0047] The first composition may be a liquid, non-aqueous liquid, gel, etc., which is transparent, so that the second pouch is visible. The second pouch or compositions therein may also have a distinctive colour, compared to the first pouch or composition therein. For example, the composition in the second pouch may comprise a (non fabric substantive) dye, whilst the first composition is colorless or comprises a different dye.

Concerning the air bubble, Roberts, Nigel Patrick Somerville teaches the following:

[0051] If the first or second component comprises a liquid composition, it is preferred that this pouch comprising the liquid composition has a small air bubble, preferably the air bubble has a volume of no more than 20%, preferably no more than 10%, more preferably no more than 5% of the

volume enclosed by said pouch. Such a air bubble provides improved resistance to rupture caused by, for example, heat, freezing, compression, etc. during shipping.

Concerning the various builders, Roberts, Nigel Patrick Somerville teaches the following:

[0079] Suitable examples of water-soluble phosphate builders are the alkali metal tripolyphosphates, sodium, potassium and ammonium pyrophosphate, sodium and potassium and ammonium pyrophosphate, sodium and potassium orthophosphate, sodium polymeta/phosphate in which the degree of polymerization ranges from about 6 to 21, and salts of phytic acid.

Concerning the enzyme and the protease, Roberts, Nigel Patrick Somerville teaches the following:

[0074] Another highly preferred ingredient useful in the compositions herein is one or more additional enzymes. Preferred additional enzymatic materials include the commercially available lipases, cutinases, amylases, neutral and alkaline proteases, cellulases, endolases, esterases, pectinases, lactases and peroxidases conventionally incorporated into detergent compositions. Suitable enzymes are discussed in U.S. Pat. Nos. 3,519,570 and 3,533,139. Preferred commercially available protease enzymes include those sold under the tradenames Alcalase, Savinase, Primase, Durazyme, and Esperase by Novo Industries A/S (Denmark), those sold under the tradenames Maxatase, Maxacal and

Maxapem by Gist-Brocades, those sold by Genencor International, and those sold under the tradenames Opticlean and Optimase by Solvay Enzymes. Protease enzyme may be incorporated into the compositions in accordance with the invention at a level of from 0.0001% to 4% active enzyme by weight of the composition.

Concerning the bleach, Roberts, Nigel Patrick Somerville teaches the following:

[0055] When the article herein is a bleach additive, it preferably comprises a mixture of bleaching agents, preferably also chelating agents and optionally other ingredients. When the article is a fabric cleaning article, the first and/or second composition preferably comprise a bleaching agent or mixture thereof. Preferably, one composition comprises a bleach activator or peracid bleach and the other composition a peroxygen bleach, or one composition comprises a bleach activator, peracid and/or a peroxygen bleach and the other composition a bleach catalyst.

Concerning the perborate, Roberts, Nigel Patrick Somerville teaches the following:

[0066] Sodium perborate (a perhydrate salt in the form of the monohydrate of nominal formula NaBO.sub.2H.sub.2O.sub.2 or the tetrahydrate NaBO.sub.2H.sub.2O.sub.2.3H.sub.2O), may be used, but is not compatible with certain pouch materials with --OH groups, such as PVA, and is thus often not preferred. Alkali metal percarbonates, particularly sodium percarbonate are preferred perhydrates herein. Sodium percarbonate is an

addition compound having a formula corresponding to 2Na.sub.2CO.sub.3.3H.sub.2O.sub.2, and is available commercially as a crystalline solid.

Concerning the non-ionic, Roberts, Nigel Patrick Somerville teaches the following:

[0054] Essentially any alkoxylated nonionic surfactants are suitable herein. The ethoxylated and propoxylated nonionic surfactants are preferred. Preferred alkoxylated surfactants can be selected from the classes of the nonionic condensates of alkyl phenols, nonionic ethoxylated alcohols, nonionic ethoxylated/propoxylated fatty alcohols, nonionic ethoxylate/propoxylate condensates with propylene glycol, and the nonionic ethoxylate condensation products with propylene oxide/ethylene diamine adducts. The condensation products of aliphatic alcohols with from 1 to 25 moles of alkylene oxide, particularly ethylene oxide and/or propylene oxide, are also suitable for use herein. The alkyl chain of the aliphatic alcohol can either be straight or branched, primary or secondary, and generally contains from 6 to 22 carbon atoms. Particularly preferred are the condensation products of alcohols having an alkyl group containing from 8 to 16 carbon atoms.

Claims 1-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Sommerville-Roberts, Nigel Patrick (US20050049164).

Concerning the intended use, Sommerville-Roberts, Nigel Patrick teaches the following:

[0047] Preferred compositions are beverages, edible compositions, pharmaceutical compositions, personal care compositions, cleaning compositions, fabric care or conditioning compositions; most preferably, the compositions herein are cleaning compositions or fabric care compositions, preferably hard surface cleaners, more preferably laundry or dish washing compositions, including detergents, pretreatment or soaking compositions or fabric conditioners, and other rinse additives.

Concerning the water-soluble pouch, Sommerville-Roberts, Nigel Patrick teaches the following:

[0082] As said before, another advantage of using stretchable and preferably also elastic material, is that the stretching action, when forming the shape of the compartment and/or when closing the compartment, stretches the material of the compartment non-uniformly, which results in a compartment and pouch which has a non-uniform thickness. This allows control of the dissolution of water-soluble pouches herein, and for example sequential release of the components of the composition in the pouch to the water.

Concerning the geometry of the pouch, Sommerville-Roberts, Nigel Patrick teaches the following:

[0070] The pouch herein has a closed structure, made of materials described herein, enclosing a volume space which comprises the composition. Thus, the pouch can be of any form, shape and material which

is suitable to hold the composition prior to use, e.g. without allowing the release of the composition from the pouch prior to contact of the pouched composition to water. The exact execution will depend on for example the type and amount of the composition in the pouch, the number of compartments in the pouch, the characteristics required from the pouch to hold, protect and deliver or release the compositions.

Concerning the water soluble aspect of the pouch, Sommerville-Roberts, Nigel Patrick teaches the following:

[0094] Also useful are polymer blend compositions, for example comprising hydrolytically degradable and water-soluble polymer blend such as polylactide and polyvinyl alcohol, achieved by the mixing of polylactide and polyvinyl alcohol, typically comprising 1-35% by weight polylactide and approximately 65-99 by weight polyvinyl alcohol, if the material is to be water-ispersible, or water-soluble.

Concerning the deformability, Sommerville-Roberts, Nigel Patrick teaches the following:

[0080] The elasticity of the pouch material referred to herein, is the elasticity at the time of making the pouch. Prolonged stretching, for example that typically occurs during storage of the pouch, will decrease the elasticity of the pouch material due to plastic creeping. It is preferred that at the time of making the pouch or compartment thereof, the compartment material has an elasticity such that the elastic recovery is from 20% to 100%, more preferably from 50% or from 60% or more

preferably from 75% or even 80% to 100%.

Concerning the dispenser compartment, Sommerville-Roberts, Nigel Patrick teaches the following:

[0017] Typically this can be done by overfilling the open compartment, using stretchable and preferably elastic material for the compartment, or using heat-shrinkable material for the compartment or filling and closing the open compartment under reduced pressure or even vacuum.(par#28)

Concerning the gel, Sommerville-Roberts, Nigel Patrick teaches the following:

[0059] The composition may also comprise liquid compounds or gels or solutions of compounds, for example liquid or gel nonionic surfactants, liquid fabric softeners, preferably then comprised in a separate compartment of the pouch.

Concerning the various builders, Sommerville-Roberts, Nigel Patrick teaches the following:

[0105] A vacuum is applied to stretch the film into the mold and pull the film flush with the inner surface of the mold. 20 g of a detergent powder mix comprising percarbonate salt and water-soluble salts and organic acids, typically carbonate salts, citric acid and/or citrate is poured into the mold. This powder mix has a bulk density of 860 g/l prior to being poured into the mold. Then, 20 g of a detergent powder mix comprising enzymes, bleach activator and surfactants is poured into the mold. This powder mix has a bulk density of 900 g/l prior to being poured into the mold.

Concerning the enzyme, Sommerville-Roberts, Nigel Patrick teaches the following:

[0121] Both types of pouched compositions are then stored in conditions of high temperature and humidity (90.degree. F., 80% Relative Humidity) without any kind of outer-wrap or packaging protection. Samples were taken after 48 hours storage and 96 hours and the activity of the enzymes in the two product are compared with one another. The activity of the enzyme in the single layer pouch after 48 hours is only about 30% of the activity of the enzyme in the dual layer pouched composition; the activity of the enzyme in the single layer pouch after 96 hours is only about 20% of the activity of the enzyme in the dual layer pouched composition.

Concerning the protease, Sommerville-Roberts, Nigel Patrick teaches the following:

[0062] Highly preferred ingredient for use herein are one or more enzymes. Preferred enzymes include the commercially available lipases, cutinases, amylases, neutral and alkaline proteases, cellulases, endolases, esterases, pectinases, lactases and peroxidases conventionally incorporated into detergent compositions. Suitable enzymes are discussed in U.S. Pat. Nos. 3,519,570 and 3,533,139. Preferred commercially available protease enzymes include those sold under the tradenames Alcalase, Savinase, Primase, Durazym, and Esperase by Novo Industries A/S (Denmark), those sold under the tradename Maxatase, Maxacal and Maxapem by Gist-Brocades, those sold by Genencor International, and those sold

under the tradenrame Opticlean and Optimase by Solvay Enzymes. Preferred amylases include, for example, .alpha.-amylases obtained from a special strain of B licheniformis, described in more detail in GB-1,269,839 (Novo). Preferred commercially available amylases include for example, those sold under the tradename Rapidase by Gist-Brocades, and those sold under the tradename Termamyl, Duramyl and BAN by Novo Industries A/S. Highly preferred amylase enzymes maybe those described in PCT/US 9703635, and in WO95/26397 and WO96/23873. The lipase may be fungal or bacterial in origin being obtained, for example, from a lipase producing strain of Humicola sp., Thermomyces sp. or Pseudomonas sp. including Pseudomonas pseudoalcaligenes or Pseudomas fluorescens. Lipase from chemically or genetically modified mutants of these strains are also useful herein. A preferred lipase is derived from Pseudomonas pseudoalcaligenes, which is described in Granted European Patent, EP-B-0218272.

Concerning the bleach, Sommerville-Roberts, Nigel Patrick teaches the following:

[0052] In particular, for cleaning compositions, it is beneficial that one component comprises at least one or more enzymes and another component comprises a peroxygen bleach such as a salt of percarbonate. The component containing the peroxygen bleach is then free of enzymes, whilst the component comprising the enzyme may comprise a bleach activator, but no peroxygen bleach.

Concerning the perborate, Sommerville-Roberts, Nigel Patrick teaches the following:

[0060] Another preferred ingredient is a perhydrate bleach, such as salts of percarbonates, particularly the sodium salts, and/or organic peroxyacid bleach precursor or activator compound. When the pouch or compartment is formed from a material with free hydroxy groups, such as PVA, the preferred bleaching agent comprises a percarbonate salt and is preferably free form any perborate salts or borate salts. It has been found that borates and perborates interact with these hydroxy-containing materials and can reduce the dissolution of the materials and also that this may result in reduced performance.

Concerning the non-ionic, Sommerville-Roberts, Nigel Patrick teaches the following:

[0065] Also preferred are also nonionic surfactants such as nonionic surfactant selected from the classes of the nonionic condensates of alkyl phenols, nonionic ethoxylated alcohols, nonionic ethoxylated/propoxylated fatty alcohols, nonionic ethoxylate/propoxylate condensates with propylene glycol, and the nonionic ethoxylate condensation products with propylene oxide/ethylene diamine adducts.

Claims 1-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Pfeiffer (US6492312).

Concerning the intended use, Pfeiffer teaches the following:

When marketing the superior dishwashing composition having the discrete particle of this invention, it is preferred that the dishwashing composition is a gel, as described above, and sold in a package with

directions to add the dishwashing composition to the dishwashing machine as a 3-in-1 product. Thus, a dishwasher is charged with the dishwashing composition of this invention without having to add to the dishwasher conventional rinse aid compositions and sodium chloride.(see col. 12, lines 53-61)

Concerning the water-soluble pouch, Pfeiffer teaches the following:

One particularly preferred method for pressing the actual water soluble sachets of the present invention employ thermoformed packages. The thermoforming process generally involves molding a first sheet of water soluble film to form one or more recesses adapted to retain the gel of the current invention, placing the gel in at least one recess, placing a second sheet of water soluble material over the first so as to cover each recess, and heat sealing the first and second sheets together at least around the recesses so as to form one or more water soluble packages, as described in WO 00/55415. A second route comprises vertical form-fill-seal (VFFS) envelopes. In one of the VFFS processes, a roll of water soluble film is sealed along its edges to form a tube, which tube is heat sealed intermittently along its length to form individual envelopes which are filled with gel and heat sealed.(see cols 12-13)

Concerning the pouch, Pfeiffer teaches the following:

The size and the shape of the sachet are not limited and individual sachets may be connected via perforated resin. Preferably, the sachet is of the size to carry a unit dose for a domestic dishwashing machine.(see col. 13, lines 14-17)

Concerning the deformability, Pfeiffer teaches the following:

> Other preferred water-soluble films may also be prepared from polyethylene oxide resins by standard calendering, molding, casting, extrusion and other conventional techniques. The polyethylene oxide films may be clear or opaque, and are inherently flexible, tough, and resistant to most oils and greases. These polyethylene oxide resin films provide better solubility than other water soluble plastics without sacrificing strength or toughness. The excellent ability to lay flat, stiffness, and sealability of water-soluble polyethylene oxide films make for good machine handling characteristics.(see col. 4, lines 40-50)

Concerning the gel, Pfeiffer teaches the following:

> In a first embodiment, the present invention is directed to a water soluble sachet comprising a dishwashing composition wherein the dishwashing composition is a gel which comprises discrete particles, the discrete particles having an approximate diameter from about 100 to about 5000 microns, and the discrete particles and gel being in a particle to gel weight ratio from about 0.005 to 0.4:1.(see col. 2, lines 58-65)

Concerning the various builders, Pfeiffer teaches the following:

> Phosphate containing builders are a preferred additive in this invention. Such builders typically make up from about 5.0 to about 75.0% by weight of the total weight of the dishwashing composition, including all ranges subsumed therein. Preferably, however, the amount of phosphate containing

builder employed is from about 10.0 to about 70.0, and most preferably, from about 15.0 to about 65.0% by weight based on total weight of the dishwashing composition and including all ranges subsumed therein. The phosphate containing builders which may be used in this invention are well known, for example, for binding metals such as Ca and Mg ions, both of which are often abundant in hard water found in dishwashing machines. An illustrative list of the phosphate builders which may be used in this invention include sodium, potassium and ammonium pyrophosphate; alkali metal tripolyphosphates, sodium and potassium orthophosphate and sodium polymetaphosphate, with potassium tripolyphosphate (KTP) being especially preferred.(par#93)

Concerning the enzyme, Pfeiffer teaches the following:

5. The water soluble sachet according to claim 4 wherein the discrete particles are encapsulated bleach, and enzyme.(see claim 5)

Concerning the protease, Pfeiffer teaches the following:

It is also within the scope of this invention to employ (optionally) discrete particles which are dishwashing enzymes. The discrete particles which are enzymes typically make up from about 0.5 to about 10.0% by weight of the total weight of the dishwashing composition and include proteases like Savinase.RTM., Purafect Ox.RTM., Properase.RTM., and Ovozyme.RTM. and amylases like Termamyl.RTM., Purastar ST.RTM., Purastar

Ox Am.RTM., and Duramyl.RTM., all of which are commercially available.(see col. 11, lines 28-36)

Concerning the bleach, Pfeiffer teaches the following:

> When the discrete particle is an encapsulated bleach which may be used in this invention, such a bleach (i.e., the core of the encapsulated bleach) includes organic and inorganic peracids as well as salts thereof. Illustrative examples include epsilon phthalimido perhexanoic acid (PAP) and Oxone.RTM., respectively. The bleaches may be employed with bleach activators, and collectively, the bleach and the activator make up from about 0.02 wt. % to about 20.0 wt. % of the total weight of the dishwashing composition.(see col. 9, lines 17-25)

Concerning the perborate, Pfeiffer teaches the following:

> Other bleaches which may be used within the discrete particles (encapsulated bleaches) in this invention include hydrogen peroxide and its precursors (e.g., sodium perborate and sodium percarbonate), alkyl, aryl and acyl peroxides such as benzoyl peroxide and solid chlorine bleach sources such as dichloroisocyanurate.(see col. 10, lines 60-65)

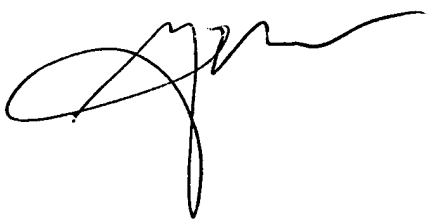
Concerning the non-ionic surfactants, Pfeiffer teaches numerous suitable nonionic surfactants (see cols 6-7).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory E. Webb whose telephone number is 571-272-1325. The examiner can normally be reached on 9:00-17:30 (m-f).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory E. Webb
Primary Examiner
Art Unit 1751

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